

AMENDED IN SENATE MAY 8, 2000

**SENATE BILL**

**No. 1927**

**Introduced by Senator Haynes**

February 24, 2000

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An act to amend Section ~~6404~~ 6405 of the Business and Professions Code, relating to legal document assistants and unlawful detainer assistants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1927, as amended, Haynes. Legal document assistants ~~and unlawful detainer assistants.~~

Existing law generally regulates ~~unlawful detainer assistants, as defined, and~~ until January 1, 2003, ~~also regulates~~ legal document assistants, as defined, and, among other things, provides for the registration by the county clerk of those persons. ~~Various persons are exempted from these regulatory requirements. Existing law requires an applicant for a certificate of registration to provide a bond in the amount of \$25,000.~~

This bill would ~~additionally exempt from these regulatory requirements persons operating as a legal document assistant or an unlawful detainer assistant who limits his or her practice solely to assisting either party in a small claims court action.~~ *reduce the amount of the bond that a legal document assistant who limits his or her practice solely to assisting either party in a small claims court action is required to provide for a certificate of registration from \$25,000 to \$5,000.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 6401 of the Business and~~

2 *SECTION 1. Section 6405 of the Business and*  
3 *Professions Code is amended to read:*

4 6405. (a) (1) ~~An~~ *Except as provided in paragraph*  
5 *(3), application for a certificate of registration by an*  
6 *individual shall be accompanied by a bond of twenty-five*  
7 *thousand dollars (\$25,000) executed by a corporate surety*  
8 *qualified to do business in this state and conditioned upon*  
9 *compliance with this chapter. The total aggregate*  
10 *liability on the bond shall be limited to twenty-five*  
11 *thousand dollars (\$25,000).*

12 (2) *An application for a certificate of registration by a*  
13 *partnership or corporation shall be accompanied by a*  
14 *bond of twenty-five thousand dollars (\$25,000) executed*  
15 *by a corporate surety qualified to do business in this state*  
16 *and conditioned upon compliance with this chapter. The*  
17 *total aggregate liability on the bond shall be limited to*  
18 *twenty-five thousand dollars (\$25,000). An application for*  
19 *a certificate of registration by a person employed by a*  
20 *partnership or corporation shall be accompanied by a*  
21 *bond of twenty-five thousand dollars (\$25,000) only when*  
22 *the partnership or corporation has not posted a bond of*  
23 *twenty-five thousand dollars (\$25,000) as required by this*  
24 *subdivision.*

25 (3) *An application for a certificate of registration by an*  
26 *individual operating as a legal document assistant who*  
27 *limits his or her practice solely to assisting either party in*  
28 *a small claims court action shall be accompanied by a*  
29 *bond of five thousand dollars (\$5,000) executed by a*  
30 *corporate surety qualified to do business in this state and*  
31 *conditioned upon compliance with this chapter. The total*  
32 *aggregate liability on the bond shall be limited to five*  
33 *thousand dollars (\$5,000).*

34 (4) *The bond may be terminated pursuant to Section*  
35 *995.440 of, and Article 13 (commencing with Section*  
36 *996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of*  
37 *Civil Procedure.*

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars (\$7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars (\$25,000) or five thousand dollars (\$5,000), as applicable, in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

~~Professions Code, as amended by Section 2 of Chapter 892 of the Statutes of 1999, is amended to read:~~

~~6401. This chapter does not apply to any person engaged in any of the following occupations, provided~~

~~that the person does not also perform the duties of a legal document assistant in addition to those occupations:~~

~~(a) Any government employee who is acting in the course of his or her employment.~~

~~(b) A member of the State Bar of California, or his or her employee, paralegal, or agent, or an independent contractor while acting on behalf of a member of the State Bar.~~

~~(c) Any employee of a nonprofit, tax-exempt corporation who either assists clients free of charge or is supervised by a member of the State Bar of California who has malpractice insurance.~~

~~(d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with Section 10130) of Part 1 of Division 4, who acts pursuant to subdivision (b) of Section 10131 on an unlawful detainer claim as defined in subdivision (b) of Section 6400, and who is a party to the unlawful detainer action.~~

~~(e) An immigration consultant, as defined in Chapter 19.5 (commencing with Section 22441) of Division 8.~~

~~(f) A person registered as a process server under Chapter 16 (commencing with Section 22350) or a person registered as a professional photocopier under Chapter 20 (commencing with Section 22450) of Division 8.~~

~~(g) A person who provides services relative to the preparation of security instruments or conveyance documents as an integral part of the provision of title or escrow service.~~

~~(h) A person who provides services that are regulated by federal law.~~

~~(i) A person who is employed by, and provides services to, a supervised financial institution, holding company, subsidiary or affiliate.~~

~~(j) A person operating as a legal document assistant who limits his or her practice solely to assisting either party in a small claims court action.~~

~~(k) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever~~

1 ~~first occurs, and as of that date is repealed, unless a later~~  
2 ~~enacted statute, that is enacted before that date, deletes~~  
3 ~~or extends that date.~~

4 ~~SEC. 2. Section 6401 of the Business and Professions~~  
5 ~~Code, as amended by Section 6 of Chapter 1079 of the~~  
6 ~~Statutes of 1998, is amended to read:~~

7 ~~6401. This chapter does not apply to any of the~~  
8 ~~following:~~

9 ~~(a) Any government employee who is acting in the~~  
10 ~~course of his or her employment.~~

11 ~~(b) An active member of the State Bar of California,~~  
12 ~~or his or her employee or agent, acting under the~~  
13 ~~member's supervision, or an independent contractor~~  
14 ~~while acting on behalf of, and under the supervision of,~~  
15 ~~the member.~~

16 ~~(c) Any employee of a nonprofit, tax-exempt~~  
17 ~~corporation who assists clients free of charge.~~

18 ~~(d) A licensed real estate broker or licensed real estate~~  
19 ~~salesperson, as defined in Chapter 3 (commencing with~~  
20 ~~Section 10130) of Part 1 of Division 4, who acts pursuant~~  
21 ~~to subdivision (b) of Section 10131 on an unlawful~~  
22 ~~detainer claim as defined in subdivision (b) of Section~~  
23 ~~6400, and who is a party to the unlawful detainer action.~~

24 ~~(e) A person operating as an unlawful detainer~~  
25 ~~assistant who limits his or her practice solely to assisting~~  
26 ~~either party in a small claims court action.~~

27 ~~(f) This section shall become operative January 1, 2003,~~  
28 ~~or the date the director suspends the requirements of this~~  
29 ~~chapter applicable to legal document assistants pursuant~~  
30 ~~to Section 6416, whichever first occurs.~~